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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 MICHAEL LEIGHTON,

Defendant.

CR17-13 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) The Government's reply, docket no. 48, in support of its motion to exclude
16 defense expert testimony, has been sealed pursuant to the first Minute Order entered on
17 October 25, 2017, docket no. 46. The Government's motion to seal, docket no. 49, is
18 STRICKEN as moot. The Government's attorneys are REMINDED to carefully review
19 the Court's written rulings and not to rely on the summaries set forth in the docket.

20 (2) The Government's motion to exclude defense expert testimony, docket
21 no. 38, is DENIED in part, GRANTED in part, and DEFERRED in part. To the extent
22 that the Government seeks to entirely exclude the testimony of Tye F. Hunter, Ph.D.,
23 ABPP, such request is DENIED. The Government does not challenge Dr. Hunter's
qualifications to serve as an expert witness; it merely questions the manner in which
Dr. Hunter reached his opinions. Such arguments go to the weight, not the admissibility,
of his testimony. To the extent that the Government seeks to limit Dr. Hunter's
testimony, such request is GRANTED in part and DEFERRED in part. Dr. Hunter will
not be permitted to testify about any statements made or questionnaire answers provided
by defendant or others. See Fed. R. Evid. 802. Moreover, Dr. Hunter will not be allowed

1 to testify about whether defendant “did or did not have a mental state or condition that
2 constitutes an element of the crime charged or of a defense.” See Fed. R. Evid. 704(b).
3 In addition, Dr. Hunter may not opine that defendant’s deficits in executive functioning
4 “resulted in his conflict with the law.” See Report at 11, Ex. B to Hunter Decl. (docket
5 no. 45-2 at 12). The exact scope of Dr. Hunter’s testimony is otherwise DEFERRED to
6 trial.

7 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
8 record.

9 Dated this 27th day of October, 2017.

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William M. McCool
Clerk

s/Karen Dews
Deputy Clerk